

## NEW HAMPSHIRE REAL ESTATE COMMISSION

### COMMISSION MEETING

APRIL 15, 2003

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, April 15, 2003 at 9:00 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting called to order at 9:00 a.m. by Chairman ARTHUR SLATTERY

Present: Commissioners ARTHUR SLATTERY, MARTIN SMITH, BARBARA HEATH, PAULINE IKAWA, NANCY LeRoy, Executive Director BETH EMMONS, and Investigator ANN FLANAGAN.

- I. Motion by Commissioner IKAWA, seconded by Commissioner LeRoy, to approve and accept the minutes of the Commission meeting held on February 20, 2003.

II. APPOINTMENTS

9:00 a.m. - Equivalency Interviews

<u>CANDIDATE</u>	<u>COMMISSIONER</u>	<u>DETERMINATION</u>
JOHN CARRON	LeRoy	APPROVED
PAUL ENGLISH	LeRoy	APPROVED
RICK SANBORN	HEATH	APPROVED

9:10 a.m. – STEVEN S. RICHMOND appeared before the Commission to explain a “yes” answer to question #7 on his original salesperson’s application. After review and discussion, and on motion by Commissioner HEATH, seconded by Commissioner IKAWA, the Commission unanimously granted the issuance of a salesperson’s license to Mr. Richmond.

9:15 a.m. – RICHARD F. CAWLEY appeared before the Commission to explain a “yes” answer to question #8 on his original broker application. After review and discussion, and on motion by Commission IKAWA, seconded by Commissioner SMITH, the Commission present and voting denied the issuance of a broker’s license to Mr. Cawley. Commissioner HEATH was opposed to the decision.

9:30 a.m. – RICHARD ELLIOT appeared before the Commission to provide further documentation requested by the Commission at its May 29, 2002 meeting. After review and discussion, and on a motion by Commission HEATH, seconded by Commissioner LeRoy, the Commission unanimously granted the issuance of an original salesperson’s license to Mr. Elliot.

11:05 a.m. – MARYPAT BILODEAU AND JOSEPH MORIARITY from the NH Real Estate Commission Annual Instructor's Workshop Committee appeared before the Commission to present the tentative Agenda for this year's workshop and to receive approval from the Commission. The Committee members discussed with the Commission the tentative plan to have a qualified speaker present a training session on topics, such as "How to instruct adult learners" or "Train the Trainer", and to also include a session on how to provide an effective presentation through Power Point. The afternoon session would include the presentation of a "core" course booklet that would be issued by the Commission, through the assistance of a committee of core real estate instructors. This booklet would provide standard information to the Instructors to ensure that all instructors are conveying the required content of the core course and the correct interpretation of the statutes and rules that are covered in the outline. The Commission unanimously approved of the items discussed and instructed the Committee to proceed with the tentative agenda.

11:30 a.m. – JENNIFER VALLEE appeared before the Commission to present a presentation on her recent statistical study of successful real estate brokers. One of the main points that Ms. Vallee wanted to share with the Commission, was that the survey showed that real estate licensees surveyed felt that organizational skills, dress for success, negotiation skills, communication skills, and computer skills are essential attributes to becoming successful.

11:55 a.m. – KEVIN STEINBACH appeared before the Commission with Attorney Brian Shaughnessy to discuss the status of his broker license. Mr. Steinbach's license recently lapsed on December 5, 2002. Mr. Steinbach submitted a renewal after the lapse date on December 9, 2002. This renewal was returned to him because it was received after the lapse date. Attorney Shaughnessy explained that Mr. Steinbach came before the Commission on December 18, 2001, due to the lapse of his license on December 5, 2000. At this meeting, the Commission reinstated his license based on extenuating circumstances, which prevented Mr. Steinbach from renewing his license prior to the lapse date. This license was issued for the remainder of his renewal period and expired on June 5, 2002. Mr. Steinbach requested that his broker's license be renewed based on the fact that his understanding was that he was issued a new real estate license for a two year period rather than a reinstatement of his existing license for only a 6 month period. Attorney Shaughnessy came before the Commission to ask for clarification as to whether the Commission issued a new license or his license was reinstated at the December 18, 2001 meeting. The Commission informed Attorney Shaughnessy that Mr. Steinbach's license was reinstated at the December 18, 2001 meeting. His license lapsed on December 5, 2002 and he is now required to retake the examination, provide 60 hours of approved study and apply for a new license.

### **III. DISCUSSION**

A draft of the Consumer Information Brochure of Agency Relationships was presented to the Commission, along with various comments and suggestions that were submitted. After review

and discussion, the Commission suggested that the committee members who developed the Brochure, set up a meeting to discuss and address all comments and suggestions prior to issuing a final draft of the Brochure. Once the Brochure is finalized, the Commission will distribute the Brochure to a number of real estate firms for a trial period before distributing the Brochure to all licensees.

A request was submitted for a ruling as to whether it is legal for the Chambers of Commerce to receive referral fees for time share and resort lodging reservations. After review and discussion, the Commission directed the Executive Director to forward the Inquiry to the Attorney General's office for an opinion.

An e-mail inquiry was submitted to the Commission regarding whether listing agents need to disclose to client sellers how willing they are to cooperate with other agents. After review and discussion the Commission decided that currently, pursuant to Rea 404.04(b), there is no requirement to disclose. However, it is advisable and encouraged in order to avoid misunderstandings.

CHARLINE MASON requested a ruling as to whether a broker can give someone who is not licensed a gift and/or money of no more than \$100 in value for referrals or leads. After review and discussion, and on motion by Commissioner LeRoy, seconded by Commissioner Heath, the Commission unanimously decided that only unsolicited third party referrals of \$100 or less are permitted. The Commission will incorporate this in the administrative rules during the next rulemaking process. Real estate agents can share any amount of their commission to anyone in the exempted class, pursuant to RSA 331-A:4.

CLARIZIO PROPERTIES requested rulings on the following questions. Whether they can circulate flyers or certificates or otherwise advertise that it will provide free home appraisals for clients listing/buying through it? Whether they can circulate flyers or certificates or otherwise advertise that it will provide free local house moving services, free house cleaning, snow removal or lawn care (up to a certain dollar amount or value) for clients listing/buying through it? After review and discussion, the Commission directed the Executive Director to request additional information from Clarizio Properties regarding the first question. The Commission stated that it was permissible to circulate flyers or certificates or otherwise advertise the services listed in the second question, based on the fact that the services are being offered to a client.

INRESCO PORTFOLIOS LTD requested a ruling as whether the INRESCO's Home Referral Network can remit a portion of its referral fee to a principal in the real estate transaction. After review and discussion, the Commission decided that it is permissible pursuant to RSA 331-A:4, and is consistent with the opinion rendered by Senior Assistant Attorney General Wynn Arnold.

**IV. HEARING 9:45 AM**

**FILE NO. 2002-07-03 GEORGE BRIGHAM & NEW HAMPSHIRE REAL ESTATE  
COMMISSION VS. NICHOLAS KOTSONAS (DBA: METROPOLIS REAL ESTATE)**

PAGE FOUR  
COMMISSION MEETING  
APRIL 15, 2003

Evaluator: Commissioner HEATH

The following persons were present at the hearing:

Commission: Commissioners ARTHUR SLATTERY, MARTIN SMITH, PAULINE IKAWA,  
NANCY LeRoy, Executive Director BETH EMMONS and Investigator ANN FLANAGAN.

Stenographer: Barry Nolin

Gerard J. Nolin & Associates, LLC  
P.O. Box 1088  
Concord, NH 03302-1088

Evaluator: Commissioner HEATH evaluated the above matter and abstained from participation in the discussion and resulting decisions.

Complainants: George Brigham

28 Wellington Terrace  
Manchester, NH 03104

&

N.H.R.E.C. through its Investigator Ann Flanagan and Intern Molly Hyde

Attorney: Pro Se

Witnesses: Carlene R. Brigham

28 Wellington Terrace  
Manchester, NH 03104

Victoria Voydatch

P.O. Box 330  
Concord, NH 03302

William L. Newell

16 Centerwood Drive  
Concord, NH 03301

Respondent: Nicholas Kotsonas ( not present)

508 Westford Street  
Lowell, MA 01851-2913

Attorney: None

Witnesses: None

DECISION: Pending – subject to review of transcripts and exhibits.

**V. OTHER BUSINESS**

1. Tuesday, May 13, 2003, was unanimously approved as the date for the next regular meeting.

**2. CASE EVALUATIONS**

**(a) FILE NO. 2000-09-04**

Evaluator: Commissioner SLATTERY

Determination: No violation, should not be heard.

**(b) FILE NO. 2001-04-03**

Evaluator: Commissioner SLATTERY

Determination: This complaint was re-evaluated based on additional evidence submitted, and was determined that there was no violation and should not be heard.

**(c) FILE NO. 2002-09-02**

Evaluator: Commissioner SLATTERY

Determination: Should be heard, hearing to be scheduled.

**(d) FILE NO. 2002-11-02**

Evaluator: Commissioner HEATH

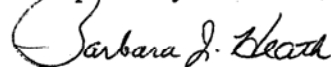
Determination: No violation, should not be heard. The Executive Director was directed to provide to the Respondent a letter, warning the Respondent to be more careful in the future.

The above determinations were unanimously approved.

**VI. ADJOURNMENT**

Motion by Commissioner LeRoy, seconded by Commissioner HEATH to adjourn the meeting. Chairman SLATTERY adjourned the meeting at 1:20 p.m.

Respectfully submitted,



BARBARA J. HEATH  
Clerk